(c) Exhibits offered after the close of a hearing will not be admitted, unless the Judge specifically keeps open or re-opens the record to admit them.

### § 904.271  Decision.

(a) After expiration of the period provided in § 904.261 for the filing of reply briefs (unless the parties have waived briefs or presented proposed findings orally at the hearing), the Judge will render a written decision upon the record in the case, setting forth:

(1) Findings and conclusions, and the reasons or basis therefor, on all material issues of fact, law, or discretion presented on the record, and the ruling on any proposed findings or conclusions presented by the parties;

(2) A statement of any facts noticed or relied upon in the decision; and

(3) Such other matters as the Judge considers appropriate.

(b) If the parties have presented oral proposed findings at the hearing or have waived presentation of proposed findings, the Judge may at the termination of the hearing announce the decision, subject to later issuance of a written decision under paragraph (a) of this section. The Judge may in such case direct the prevailing party to prepare proposed findings, conclusions, and an order.

(c) The Judge will serve the written decision on each of the parties by registered or certified mail, return receipt requested, and will promptly certify to the Administrator the record, including the original copy of the decision, as complete and accurate.

(d) Unless the Judge orders a stay under § 904.272, or unless a petition for discretionary review is filed or the Administrator issues an order to review upon his/her own initiative, an initial decision becomes effective as the final administrative decision of NOAA 30 days after service, unless otherwise provided by statute or regulations.

### § 904.272  Petition for reconsideration.

Unless an order of the Judge specifically provides otherwise, any party may file a petition for reconsideration of an order or decision issued by the Judge. Such petitions must state the matter claimed to have been erroneously decided and the alleged errors or relief sought must be specified with particularity. Petitions must be filed within 20 days after the service of such order or decision. Neither the filing nor the granting of a petition for reconsideration may operate as a stay of an order or decision or its effectiveness date (including for purposes of § 904.273) unless specifically so ordered by the Judge. Within 15 days after the petition is filed, any party to the proceeding may file an answer in support or in opposition. In the Judge's discretion, the hearing may be reopened to consider matters raised in a petition that could not reasonably have been foreseen prior to issuance of the order or decision.

### § 904.273  Administrative review of decision.

(a) Subject to the requirements of this section, any party may petition for review of an initial decision of the Judge within 30 days after the date the decision is served. The petition shall be addressed to the Administrator and filed at the following address: Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, Room 5128, 14th Street and Constitution Avenue NW., Washington, DC 20230.

(b) Review by the Administrator of an initial decision is discretionary and is not a matter of right. A petition for review nust be served upon all parties. If a party files a timely petition for discretionary review, or action to review is taken by the Administrator upon his or her own initiative, the effectiveness of the initial decision is stayed until further order of the Administrator.

(c) Petitions for discretionary review may be filed only upon one or more of the following grounds:

(1) A finding of a material fact is clearly erroneous based upon the evidence in the record;

(2) A necessary legal conclusion is contrary to law or precedent:

(3) A substantial and important question of law, policy, or discretion is involved (including the amount of the civil penalty); or

(4) A prejudicial procedural error has occurred.